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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,333	11/14/2001	Mathias Smith	TOK00-027	3554
22855	7590	12/21/2004	EXAMINER	
RANDALL J. KNUTH P.C. 4921 DESOTO DRIVE FORT WAYNE, IN 46815			PHILIPPE, GIMS S	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/991,333

Applicant(s)

SMITH, MATHIAS

Examiner

Gims S Philippe

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12172004</u> . | 6) <input type="checkbox"/> Other: ____.  |

### DETAILED ACTION

This is a first office action in response to application no. 09/991,333 filed on November 14, 2001 in which claims 1-56 are presented for examination.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-7, 9-54, and 56 are rejected under 35 U.S.C. 102(e) as being anticipated by Terranova (US Patent no. 6157871).

Regarding claims 1, 11, 21-22, 25, 30, 38, 40, 45-47, 50, 51, and 56, Terranova discloses a system for use in a refueling environment having a fuel dispenser position

Art Unit: 2613

(See col. 4, lines 28-33), said system comprising surveillance camera operatively associated with said fuel dispenser position (See Fig. 5, camera 262), said surveillance camera being configured to operatively collect at least one image pertaining to said fuel dispenser position (See col. 28, lines 41-50); and a controller operatively associated with said surveillance camera (See controller 80 of fig. 5), said controller being configured to direct operation of said surveillance camera in response signal indicative of a trigger event (See col. 33, lines 4-15, and lines 53-66).

As per claims 2, 13, 23, 31, 39, and 49, most of the limitations of these claims have been noted in the above rejection of claims 1, 11, 21, 30, 38, 46 and 51. In addition, Terranova further provides configuration to operate in response to a signal indicating authorization of a transaction pertaining to the dispenser user (See Terranova fig.18, and col. 28, lines 28-32).

As per claims 24, 33, and 56, Terranova further discloses issuing a trigger event signal from a point-of-sale facility in the refueling environment (See Terranova col. 18, lines 20-32).

As per claims 3, and 50, most of the limitations of these claims have been noted in the above rejection of claim 1. In addition, Terranova further discloses a signal indicating the presence of a vehicle associated with the fuel dispenser position (See col. 11, lines 18-30, col. 27, lines 26-33, and col. 29, lines 15-18).

Art Unit: 2613

As per claims 4, and 27-29, Terranova's camera is a camera recorder (See fig. 8, camera 262).

As per claims 5-6, 17-18, 34, 43-44, and 54, Terranova further provides a network connection configured for connection to at least the Internet (See col. 37, lines 21-23).

As per claims 19-20, 37, most of the limitations of these claims have been noted in the above rejection of claims 11 and 14. In addition, Terranova further provides a communication link between the refueling environment and a remote location (See Terranova col. 5, lines 34-55).

As per claim 7, Terranova further provides a camera housed within the fuel dispenser is considered an inherent feature of the system as seen in fig. 8, camera 262.

As per claims 10, 14-16, 26, 35-36, 41-42, 48, and 52-53, Terranova further discloses the means for providing a record of the drive-off event (See col. 33, lines 53-66).

As per claim 9, Terranova's camera as disclosed in fig. 5, items 86 and 262, and col. 28, lines 41-50, col. 33, lines 2-8, will provide the still image, series of images, moving image, full motion video sequence, or a combination thereof.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terranova (US Patent no. 6157871) in view of Kirsten (US Patent no. 6011901).

Regarding claim 8, most of the limitations of this claim have been noted in the above rejection of claim 1.

It is noted that Terranova is silent about recording over any previously recorded video portions in the absence of a signal pertaining to previously recorded video portions.

Kirsten discloses recording over any previously recorded video portions in the absence of a signal pertaining to previously recorded video portions (See Kirsten col. 5, lines 1-5).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying the Terranova's fuel dispenser by incorporating Kirsten's step of recording over any previously recorded video portions in the absence of a signal pertaining to previously recorded video portions. The motivation

Art Unit: 2613

for performing such a modification in Terranova is to make room for new data once the age of archival is over as taught by Kirsten (See Kirsten col. 5, lines 6-20).

5. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terranova (US Patent no. 6,157,871) in view of Fernandez et al. (US Patent no. 6,697,103).

Regarding claim 55, most of the limitations of this claim have been noted in the above rejection of claim 54.

It is noted that Terranova is silent about a network including a packet-based data network.

Fernandez discloses a monitoring system including a network including a packet-based data network (See col. 2, lines 22-32, col. 3, lines 30-42).

Therefore, it is considered obvious that one skilled in the art at the time of the invention would recognize the advantage of modifying Terranova's method by incorporating Fernandez's refueling method including a network with a packet-based data network. The motivation for such a modification in Terranova is to be able to identify more than one detector as taught by Fernandez (See col. 3, lines 30-42).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2613


Johnson, Jr. (US Patent no. 6470233) teaches fuel dispensing and retail system for preventing use of stolen transponders.

Mohr (US Patent no. 6175382) teaches unmanned fueling facility.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gims S Philippe whose telephone number is (703) 305-1107. The examiner can normally be reached on M-F (9:30-7:00) Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S Kelley can be reached on (703) 305-4780. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gims S Philippe  
Primary Examiner  
Art Unit 2613

GSP

December 13, 2004